

From: Chris Rode
Applicant, PRO-SE
Application 09/287,478
To: Thai Phan, AU 2128
Date: 07/23/2010

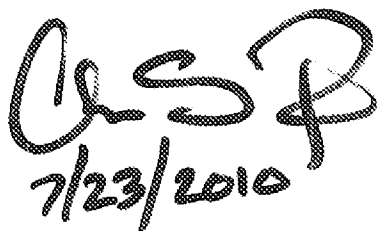
Dear Mr. Phan,

Attached please find my recollection of our conference call of 5/6/2010 plus subsequent discussion.

Thank you for your entry of the IDS from October 19, 2005. I would like to note that you had earlier thought item 4 ("Email from Mark Noble...") would be inadmissible as part of an IDS (unsworn statement), whereas it has here been allowed. Also noted is that item 5 has been accepted with its convoluted history due to much delayed payment of the requisite fee. I don't know that any explicit action has been taken, or needs to be taken beyond my letter regarding the withdrawal of the affidavit with respect to item 5. I assume the section 181 petition has been essentially mooted (or granted) by the Notice of Allowance, and my understanding is that payment of the post-final IDS fee moots the issue of the affidavit.

There was at one point a notion to create a fifth IDS that would substitute for the now-defunct links originally disclosed in IDS 4 (the IDS of October 19, 2005), however, there is apparently no way to submit a new IDS during the appeal process. Nonetheless I feel I should append the suggested replacement links here (Appendix C) as it may be possible for you to include them as an examiner's amendment(?) I am also unsure of how this is affected by the continuing duty to disclose.

Best regards,

A handwritten signature in black ink, appearing to be 'CRS' with a large flourish, followed by the date '7/23/2010' written below it.

Chris Rode
Applicant, PRO-SE 09/287,478

Summary of Phone Call regarding Application 09/287,478
5/6/2010, about 10:30 AM
(Regarding amending claims)

Present:
Supervisory Examiner Kamini Shah, USPTO
Examiner Thai Q. Phan; USPTO
Christian S. Rode; Rode Consulting, Inc.

I concur that the primary purpose for this conference call was to discuss Mr. Phan's proposal to merge language from the specification into claims 1, 10 and 15 (as enumerated in the most recent appeal brief) so as to reach allowability for these claims. At the beginning of the call I had some "housekeeping" questions regarding patent status. I have attached my initial summary from 5/7/2010 to this revised summary (Appendix A).

My further email of 5/17/2010 (see below, Appendix B) addressed Mr. Phan's original proposal.

At the time of the conference call I expressed the possibility that perhaps I could similarly merge language from dependent claim 7 into claims 1, 10 and 15, however see Miscellaneous Letter posted 2010-06-09 regarding the apparent null effect of adding language into claims 1, 10 and 15 without adding numerical limits, as without such limits degenerate cases effectively moot the language. This letter also contained alternative claims-merging proposals.

Respectfully submitted,

Handwritten signature of Christian S. Rode and the date 7/23/2010.

Christian S. Rode
Applicant, PRO-SE 09/287,478

APPENDIX A

INITIAL SUMMARY OF CONFERENCE CALL OF 5/6/2010

To: Mr. Thai Phan
Patent Examiner, AU 2123
USPTO
Re: Summary of conversation, 5/6/2010

Dear Mr. Phan,

Here is my summary of yesterday's conference call between Ms. Shah, yourself, and myself. My apologies this took longer to summarize than I thought; the history is now so big I can't keep even an index of it in my head any more.

Although I saw no activity since January in the transaction history or image file wrapper, I checked with the EBC yesterday and they affirmed the extension and IDS fees submitted with the most recent appeal brief had been accepted. My first question to the two of you, then, was "housekeeping" as to whether the most recent appeal brief looked good and whether action on the Rule 181 petition might occur soon. Ms. Shah's response was that the patent application status was "fine", but that she wished to move past the technical issues to modify the claims to proceed to allowance.

With respect to the consideration and entry of the disputed IDS, there may be some difficulty in locating the cited documents today at their original cited addresses. I have contemporaneous copies, of course, and have located copies of some of the documents in archive.org and elsewhere on the web, and a couple of years ago visited a Notary Public to make certified copies of those and which I can provide if asked. Ms. Shah informed me that emails and letters (that are not signed and witnessed as affidavits?) are not acceptable NPL documents and so the email item of the IDS would have to be struck. I will attempt to locate paper copies of the other documents.

Here are some replacement URLs (as of 8/26/09)
http://web.archive.org/web/20040604233742/www.xilinx.com/products/logiccore/pci/cg_ga.htm
<http://www.nalanda.nitc.ac.in/industry/appnotes/xilinx/documents/techdocs/7436.htm>

The heart of yesterday's discussion was your proposal to modify independent claims 1, 10 and 15 using language from page 9 (here, 8-9), of the original Specification:

- b) If authentic, the Unique ID is looked up in a database (in the source listing, this is simply a text file)**
- c) to determine which account directory should be used. A simulation counter and timestamp are also retrieved and it is determined whether too many simulations have been run by this ID within the prescribed time. If too many have been run, the user Browser is directed to an error page.**

My response was to ask whether you wished to merge dependent claim 7 into claims 1, 10 and 15, and you sounded like that might be acceptable.

7. The method of Claim 1, comprising the following additional steps before processing of said merged data:

- a) retrieving a database record indexed by the Unique Identifier, said database record containing at least an associated simulation usage and timestamp;
- b) creating a new database record when no existing record is found, said new database record indexed by the Unique Identifier and containing at least a simulation usage initialized to zero (0) and a timestamp initialized to the current time;
- c) deleting said retrieved record and backing up at least one step, if said timestamp has become older than a certain threshold;
- d) skipping at least the processing of said merged data, if the simulation usage per unit time has exceeded some threshold;
- e) updating said simulation usage in said database record and saving the updated record in said database.

However, on further reflection, I realized that Claim 1 already contains the following clause in step a) (regarding the Unique Identifier)

... for at least one of the purposes of a) maintaining server state including, but not limited to, separation and management of User data, b) limiting access to or limiting use of server resources, c) tracking server usage or d) server security;

So, another way of fulfilling your suggestion would be to change this phrase to say **"for at least the purpose of limiting access to or use of server resources"**, or perhaps more succinctly **"for at least the purpose of limiting use of server resources"**?

As I said yesterday, one of the downsides of growing old is I can't think as quickly on my feet as I used to and it takes many cups of coffee to think through all the ramifications, particularly as regards the Transim patent. So, without prejudice to the claims as they are currently, which I regard as novel, useful and nonobvious in the 1996 timeframe, I will work to amend them so that they are acceptable to you (and Ms. Shah) WRT USC 35 103(a). I plan to have additional communication to you by the end of Monday, May 18th.

Best regards,
Chris Rode
Rode Consulting, Inc.
Applicant, PRO-SE, 69/287,478
Phone: 781-899-4322

cc: Kamini Shah
Supervisory Patent Examiner, AU 2128

APPENDIX B
Email of 5/17/2010

To: Ms. Kamini Shah
Supervisory Patent Examiner
AU 2128
United States Patent and Trademark Office
Re: Informal reply to claims proposal of 5/13/2010

5/17/2010

Dear Ms. Shah,

The summary bullet point for today is that I am still working on a formal reply to your proposal of 5/13/2010.

My initial impression was that the additions of the proposed clauses are too restrictive and do not fairly represent the scope of the invention, as viewed in the contemporary timeframe it was created. I still believe that the clauses as written are non-obvious, though we can agree that some claims are “more non-obvious” than others and I must consider how any such claims will inevitably be viewed in 2010.

One point to make is that the preferred embodiment contains additional features above and beyond the essence of the invention(s). In this case, the essence of the invention is adding (persistent) state to a stateless protocol, and using that state to manage resources. The use of a database to look up account directory (second proposed amendment) is something that was added to the core invention merely to make it more general (i.e., the same simulation server can service different users with different simulations), but is not essential to the novel, useful and non-obvious method of public use of simulation server. Therefore there is no reason to circumscribe the claims by adding a reference to it. That is similar to confusion that has occurred regarding passwording – a feature that did not exist in the original implementation and was added in response to a client request for a kind of public-private use of the system.

Similarly, tracking server usage and server security are not absolutely essential to the goal of providing public simulation access, although they were demonstrated as part of the preferred embodiment.

Please note the following phrase on page 10 (of the original application):

Thus the scope of the invention should be determined by the appended claims and their legal equivalents, rather than by the examples given.

That is, I view the claims as describing the invention. To be pedantic, if I had invented the car, and mentioned that the preferred embodiment included power windows, air conditioning and a radio, I would still view the underlying invention as just the car. Perhaps the correct way to approach such layered invention is through divisional patents, but please note, this is/was my first attempt at a patent as a PRO-SE.

With regards to your suggested addition of the phrase “wherein the merging including retrieving a simulation counter and timestamp to said simulation program to determine simulation time and server resource usage to the client account directory.”, here I feel we come

to one of the cruxes of the matter: how the addition of a Unique Identifier facilitates (what was undoubtedly new in the 1996-1997 timeframe) resource management and so facilitates the public use of a limited resource, specifically, circuit simulation (please note that these claims are restricted to the simulation space, although I do not believe Mr. Phan has come across prior art showing similar management of any web resources by means of a dynamically-assigned Unique Identifier).

I wish to broaden this language to include more mechanisms for limiting use of resources than a simple counter, because I do not pretend to have a sophisticated understanding of the “doctrine of equivalents”. Please note the following quotations from the original application:

Page 5:

The current invention also extends the advantages of a client-server implementation with respect to unburdening client computer resources (computational, storage, etc.) to anonymous users on the world-wide web (WWW) / public internet.

And page 2:

The following books / documents provide relevant background and are incorporated by reference:

“CGI Programming on the World Wide Web”, Shishir Gundavaram, © 1996 O’Reilly & Associates, Inc.
“The Essential Client/Server Survival Guide, Second Edition”, Orfali, Harkey and Edwards, © 1996 John Wiley and Sons
“Programming Perl”, Larry Wall & Randal L Schwartz, © 1991 O’Reilly & Associates, Inc.
“Java in a Nutshell, A Desktop Quick Reference for Java Programmers”, David Flanagan, © 1996 O’Reilly & Associates, Inc.
“HTML: The Definitive Guide”, Musciano & Kennedy, © 1996 O’Reilly & Associates, Inc.
“JavaScript: The Definitive Guide, 2nd edition”, David Flanagan, © 1996-7 O’Reilly & Associates, Inc.
RFC 1945 (HTTP 1.0) / 2048 (HTTP 1.1) / etc., IETF (Internet Engineering Task Force)
RFC 1866 (HTML 2.0), IETF
HTML 3.2, W3C (World-Wide Web Consortium)

My position is that all of the standard mechanisms for client-server control of resources found in these references have been incorporated into the present invention by reference. In this way, I feel that the purpose of the (de minimus) simulation counter-with-timestamp mechanism described in the preferred embodiment and in dependent claim 7 is adequately served by the existing phrases of :

for the purposes of i) maintaining server state including, but not limited to, separation of and management of user data and ii) limiting access to or limiting use of server resources (,;)

I continue to work on this, including finding examples from the above-cited references, and hope to produce an additional reply by tomorrow.

Best regards,
Chris Rode
Applicant, PRO-SE 09/287.478
781-899-4322

APPENDIX C

PROPOSED REPLACEMENT LINKS FOR IDS OF OCTOBER 2005

(Active as of 6/17/2010)

51A (equivalent to item 1 of IDS of October 2005)

Answer Database, Record #7436: "LogiCORE PCI: XPCI CORE Generator Server transaction failed. Failure cause: 1097" [online], NITC, India, 1999-09-14 [retrieved on 2010-06-16]. Retrieved from the Internet: <URL: <http://www.nalanda.nitc.ac.in/industry/appnotes/xilinx/documents/techdocs/7436.htm>>

51B (equivalent to item 1 of IDS of October 2005)

AR #7436 - LogiCORE PCI - Error: "XPCI CORE Generator Server transaction failed. Failure cause: 1097..." [online], Xilinx 01/29/2003 [retrieved on 2010-06-16]. Retrieved from the Internet: <URL: <http://www.xilinx.com/support/answers/7436.htm>>

52 (equivalent to item 1 of IDS of October 2005)

CORE Generator for PCI: The First Web-Based Development Tool for FPGA Design [online], Xilinx, 1997 2Q [retrieved on 2010-06-16], pg 14, 22. [retrieved on 2010-06-16]. Retrieved from the Internet: <URL: <http://www.xilinx.com/publications/archives/xcell/Xcell25.pdf#page=14>>

53A (equivalent to item 1 of IDS of October 2005)

Xilinx PCI - LogiCORE PCI Questions & Answers [online], National Institute of Technology, Calcutta, [original date unknown; retrieved on 2010-06-16]. Retrieved from the Internet: <URL: http://www.nalanda.nitc.ac.in/industry/appnotes/xilinx/documents/products/logicore/pci/cg_qa.htm>

53B (equivalent to item 1 of IDS of October 2005)

Xilinx PCI - LogiCORE PCI Questions & Answers [online], archive.org, (C) Xilinx 1994-2003 [retrieved on 2010-06-16]. Retrieved from the Internet: <URL: http://web.archive.org/web/20040604233742/http://www.xilinx.com/products/logicore/pci/cg_qa.htm>

55A (equivalent to item 1 of IDS of October 2005)

RODE CONSULTING, INC., Why Choose a Monolithic Instrumentation Amplifier? (EXPERIMENTAL), archive.org, 2000-09-29 [retrieved on 2010-06-17]. Retrieved from the Internet: <URL: <http://web.archive.org/web/20000929092344/onlinetools.chipcenter.com/netsim>>